

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ANTONIO MARTINEZ,

Petitioner,

v.

THERESA DELBALSO, et al.,

Respondents.

:
:
:
:
:
:
:
:
:
:
:

No. 2:19-cv-05606-MSG

STIPULATION OF DISMISSAL

The undersigned counsel for the parties stipulate and agree as follows:

1. Petitioner Antonio Martinez's petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 was docketed in this Court on November 27, 2019. That petition was prepared and filed by the undersigned counsel for petitioner.

2. In that petition, Mr. Martinez, through counsel, sought an Order vacating his conviction for first-degree murder and related offenses and his sentence of life imprisonment without parole arising from a matter tried in the Philadelphia Court of Common Pleas under the caption, *Commonwealth v. Antonio Martinez*, CP-51-CR-0530631-1989.

3. While this habeas corpus matter has been pending in this Court, Mr. Martinez has been litigating in the Philadelphia Court of Common Pleas a *pro se* petition under the Post Conviction Relief Act raising substantially the same issues presented in his counseled federal habeas petition. Mr. Martinez filed that petition on or about March 26, 2019, approximately one month before he secured the representation of the below referenced counsel for petitioner.

4. On or about September 25, 2020, without the knowledge of the undersigned counsel, the Philadelphia Court of Common Pleas scheduled a court conference for October 23, 2020, for the purpose of addressing the status of Mr. Martinez's *pro se* PCRA petition.

5. On October 13, 2020, at Mr. Martinez's request, the undersigned counsel for Mr. Martinez entered an appearance in the Philadelphia Court of Common Pleas as counsel for Mr. Martinez for purposes of litigating the PCRA petition.

6. On October 17, 2020, the undersigned counsel for both parties filed briefing in the Philadelphia Court of Common Pleas regarding the issues presented in the PCRA petition.

7. On October 23, 2020, the undersigned counsel appeared for a virtual hearing in the Philadelphia Court of Common Pleas before the Honorable Tracy Brandeis-Roman. At the conclusion of that hearing, the court entered the attached Order vacating Mr. Martinez's conviction and sentence. *See* Ex. A.

8. The Order vacating Mr. Martinez's conviction and sentence moots the issues presented in the instant federal habeas corpus matter.

9. Accordingly, in reliance on the Order of the Philadelphia Court of Common Pleas, the parties agree to the dismissal of this action pursuant to Fed. R. Civ. P. 41(a)(1)(A)(ii).

/s/ Jonathan H. Feinberg
Jonathan H. Feinberg
KAIRYS, RUDOVSKY, MESSING
FEINBERG & LIN LLP
718 Arch Street, Suite 501 South
Philadelphia, PA 19106

Counsel for Petitioner

/s/ Patricia Cummings
Patricia Cummings

/s/ Thomas Gaeta
Thomas Gaeta

Conviction Integrity Unit
DISTRICT ATTORNEY'S OFFICE
Three South Penn Square
Philadelphia, PA 19107

Counsel for Respondents

EXHIBIT A

IN THE COURT OF COMMON PLEAS
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
CRIMINAL TRIAL DIVISION

COMMONWEALTH OF
PENNSYLVANIA,

V.

ANTONIO MARTINEZ

:
: COURT OF COMMON PLEAS
:
: PHILADELPHIA COUNTY
: CP-51-CR-0530631-1989
: PID# 548624
: PR# BG-9424
:
:

FILED

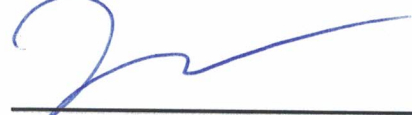
OCT 23 2020

PCRA Unit
CP Criminal Listings

ORDER OF COURT

AND NOW, this 23RD of October, 2020, it is hereby
ORDERED that, pursuant to Petitioner's Post Conviction Hearing Acting Motion is
hereby GRANTED. Petitioner's Motion for a New Trial is hereby GRANTED. The
entirety of PETITIONER'S CONVICTIONS ARE HEREBY REVERSED.
PETITIONER'S SENTENCES ARE HEREBY VACATED.

BY THE COURT:



TRACY BRANDEIS-ROMAN, J.



PROOF OF SERVICE

I, Karen O'Hara, secretary to Honorable Tracy Brandeis-Roman, hereby certify that I served, on 10/23/20, by first-class mail, postage prepaid, a true and correct copy

Jonathan H. Feinberg, Esq.
718 Arch Street, Sute 501 South
Philadelphia, PA 19106

ADA, PATRICIA CUMMINGS, Esquire
Office of the District Attorney
CONVICTION INTEGRITY UNIT
Three South Penn Square
Philadelphia, PA 19107

ADA, THOMAS GAETA, Esquire
Office of the District Attorney
CONVICTION INTEGRITY UNIT
Three South Penn Square
Philadelphia, PA 19107



Karen O'Hara